Benjamin Minhao Chen and Zhiyu Li*

The Foundations of Judicial Diffusion in China: Evidence from an Experiment

https://doi.org/10.1515/rle-2017-0008

Abstract: Chinese judicial opinions were, for a long time, not readily accessible even by the courts. But an emerging norm of judicial transparency, coupled with the technological advances of the last decade, has resulted in the accumulation of vast bodies of cases available for consultation by both the lay and the learned. These recent developments in the Chinese legal landscape allow judges to influence and be influenced by the decisions of judges sitting in other courts. This project is the first to adopt an experimental approach to evaluating the influence of prior judicial decisions on Chinese judges. We find that citation of a case out of a sister court had a substantial and statistically significant effect on judges' interpretation of a vague, permissive, legal standard. This effect was not, however, accompanied by a reduction in the length of sentences awarded by judges. An additional study suggests that prior judicial decisions have an indistinguishable influence on judges and law students, indicating that role and environment are unlikely to be the explanation for the main result.

Keywords: China, judicial transparency, judicial decisionmaking, precedent, experiment

Introduction

Policies that are introduced in one jurisdiction often shape those adopted by other jurisdictions through a process of "diffusion" (Shipan and Volden, 2012). Diffusion may occur as legislators and bureaucrats learn about innovations in other states through conferences and the media, but it could also occur through the transmission of judicial decisions. The former has been intensively studied

***Corresponding author: Zhiyu Li,** University of California Berkeley School of Law, Berkeley, USA, E-mail: lizhiyu@berkeley.edu
Benjamin Minhao Chen, Jurisprudence and Social Policy, University of California Berkeley School of Law, Berkeley, USA, E-mail: benched@berkeley.edu

in the Chinese context (See Teets and Hurst, 2014; Cho, 2008, pp. 15, 165; Xia, 2007, pp. 163–164; Zhu, 2014; Ma, 2014; Heilmann et al., 2013; Zhang, 2012). The latter has, however, been neglected, not least because judicial opinions were, for a long time, not made accessible, even to the courts.

But an emerging norm of judicial transparency, coupled with the technological advances of the last decade, has resulted in the accumulation of vast bodies of cases available for consultation by both the lay and the learned. Today, the references available to a Chinese judge include not only the print volumes of the Supreme People's Court Gazette,[1] the Chinese Guiding Cases,[2] and the Selected Cases of the People's Courts,[3] but also online databases of cases from courts at all levels of judicial hierarchy in different Chinese jurisdictions.

These recent developments in the Chinese legal landscape allow judges to influence and be influenced by the decisions of judges sitting in other courts (Liebman and Wu, 2007, pp. 291–294). As the emergence of "an informal system of precedent may significantly change the Chinese legal system," (Liebman and Wu, 2007, p. 291) the existence, extent, and nature of any such influence is of relevance to both scholars and practitioners. We seek traction on this question by fielding a survey experiment.

The Chinese context

The doctrine of *stare decisis* has become so firmly entrenched in American legal culture that the impression of precedent on the judicial mind is hardly ever doubted.[4] But the legal status of cases in the Chinese legal system has waxed and waned over the centuries. Although statutes have constituted the dominant source of law since imperial times, the recognition of prior judicial decisions as

1 This official publication has been regularly published by the Chinese Supreme People's Court since 1985 (at first, issued quarterly; between 1989 and 2004, issued once every two months; after 2004, issued monthly). It carries important national legislation, official documents, judicial interpretations and a selection of civil, criminal, economic, marine, and administrative judicial decisions that have been adopted by the Judicial Committee of the Supreme People's Court. Available at: http://www.court.gov.cn/qwfb/zgrmfygb/.

2 Since December 21, 2011, the Chinese Supreme People's Court has published Guiding Cases that must be referred to by courts at all levels.

3 The Selected Cases of the People's Courts is a quarterly publication issued by the China Institute of Applied Jurisprudence under the Supreme People's Court. The table of contents for each issue is available at http://www.court.gov.cn/yyfx/yyfxyj/alyj/rmfyalx/.

4 For a history, see Kempin (1959).

precedential dates back at least to the Qin dynasty (Liu, 1991, pp. 109–110). Under the Qin, cases furnished the legal basis for adjudications in the absence of enacted law, or where the enacted law was erroneous or vague (Dong, 2015, pp. 19–22; Yang, 2015, p. 242).[5] During the Han dynasty, judgments that had been approved by the emperor were used to fill the interstices of the law.[6] In Song China, prior judicial decisions carrying the stamp of imperial authority could even trump statutory provisions to the contrary (Yang, 2015, p. 242; Liu, 1991, pp. 110–111). By the time of the Qing dynasty, attention to cases had become "indispensable to legal reasoning," and reasoning by analogy, a "universally accepted [method] in Qing decision-making" (Wang, 2005, p. 334; Qin and Zhou, 1995, p. 335). Qing judges deduced abstract rules from a body of cases and distinguished them based on factual and statutory considerations (Wang, 2005, pp. 334–340). This tradition carried on into early modern China, and judgments continued to be collected for judicial use even amidst the turmoil of the Second Sino-Japanese War and Chinese Civil War (Dong, 2015).[7]

The ascension of Mao's communist government in 1949 ended the use of cases as a source of law (Liu, 1991, p. 112).[8] Although cases were occasionally used for the training of judicial officers, these internally circulated materials were not made available to the public (Liu, 1991, pp. 112–113). The aftermath of the Cultural Revolution and the need to cabin judicial discretion in criminal sentencing, however, led the Chinese Supreme People's Court to commence, in

5 The system of precedent officially established in the Qin dynasty had its roots in the practices of the Xia-Shang dynasties and Western Zhou dynasty. Before Qin, given the absence of rules for conviction and punishment, emperors decided a case according to previous judgments or "stories." Stories formed the basis for judgments and were later recorded and compiled in "The Spring and Autumn Annals." In addition, six major rules for the use of stories were formulated: (1) follow previous stories; (2) prudently select the stories to be applied; stories without general guidance should not be used; (3) a case should be decided by more than one person; (4) sort and record typical stories for further modification in light of contemporary situations and facts; (5) create new precedent if necessary; (6) illegal stories should not be precedents (Dong, 2015, pp. 19–22; Wu, 1998, pp. 25–30).

6 In Han China, there are four forms of law: "*lv*," "*ling*," "*ke*" and "*bi*." "*Bi*" refers to precedents that may be used as the basis for deciding cases (Cui, 1988, p. 11).

7 One of the largest collection of cases during this time was "The Compilation of Judicial Cases of Shan Gan Ning Border Region" edited by the highest court of Shan Gan Ning Border Region in 1944. It contained 77 prior judgments decided by the government adjudication committee, the highest court, and local courts of the Shan Gan Ning Border Region.

8 See Zhonghua Renmin Gongheguo Xianfa (1954) [Constitution of the People's Republic of China (1954)] (promulgated by National People's Congress, Sep. 20, 1954, effective Sep. 20, 1954), art. 78, http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=52993 ("In administering justice the people's courts are independent, subject only to the law.").

1985, the publication of selected cases in its Gazette so as to "provide better guidance to local courts for correctly applying laws and decrees" (He, 2008; Yao, 2008). Beginning in December 2011, the Chinese Supreme People's Court has also issued Guiding Cases. As of April 2017, 87 such cases have been promulgated. Although described as Guiding Cases, lower courts have to take reference from them.[9]

During this time, Chinese courts have also begun to experiment with intra-court systems of precedent. For example, in July 2002, a basic people's court in Zhongyuan, Zhengchou, introduced "a process whereby a holding shall be recognized as a 'precedent' with a certain degree of binding effect in the adjudication of similar cases in the future, which other panels and individual judges should refer to in handling similar cases" (Lin, 2003, pp. 300–301; Liebman and Wu, 2007, p. 290). In October 2002, the Tianjin City High People's Court piloted a similar innovation (Lin, 2003, p. 302). The Zhuhai Municipal Intermediate People's Court likewise circulated, in June 2008, eight "exemplary cases" that may be quoted, but not cited, for their legal reasoning and that may serve as the basis for the modification of a judgment on retrial or appeal (Dong, 2015, p. 172). Presiding Judge Li Guanghu of the Zhongyuan Basic People's Court took care to explain the difference between his court's system of precedent and the common law doctrine of *stare decisis*. Among other things, precedent in the local court has "binding effect only on itself but not on other courts at the same level" (Dong, 2015, p. 109). Hence, there is no contradiction between the use of precedent and the civil law principle that laws are to be made only by the legislature (Dong, 2015, p. 109).

The nascent interest in intra-court consistency has coincided with, and been overshadowed by, the rise of databases brought about by an emphasis on transparency (Hou and Keith, 2012). Seeking to dispel perceptions of judicial corruption through public education and oversight (Hou and Keith, 2012), the Chinese Supreme People's Court, in 2009, issued a notice that

> [t]he people's courts may, according to the needs of legal advocacy, law research, case guidance and unification of standards for judgment, compile, print and publish various

9 See Zuigao Remin Fayuan Yinfa "Guanyu Anli Zhidao Gongzuo de Guiding" [Notice of the Supreme People's Court on Issuing the Provisions on Case Guidance] (promulgated by the Supreme People's Court, Nov. 26, 2011, effective Nov. 26, 2011), art. 7, http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=143870. See "Zuigao Renmin Fayuan Guanyu Anli Zhidao Gongzuo de Guiding] Shishi Xize [Detailed Rules for the Implementation of the Provisions of the Supreme People's Court on Case Guidance" (promulgated by the Supreme People's Court, May. 13, 2015, effective May 13, 2015), arts. 9, 10, 11, http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=249447.

> judgment documents in a centralized way. The judgment documents of the people's courts may be published on the Internet, except for the cases involving state secrets, juvenile delinquency and personal privacy, cases inappropriate for disclosure, and cases closed through mediation.[10]

Many of the judicial decisions of Chinese courts have since been made available online. Two of the most comprehensive online databases are "China Judgments Online" and "Chinalawinfo." "China Judgments Online," maintained by the Chinese Supreme People's Court, contains more than 16,559,000 judgments involving criminal, civil, administrative, state compensation, and enforcement disputes.[11] "Chinalawinfo," established by the Legal Information Center of Peking University in 1985, now archives the full texts of 2174 statutes and more than 14 million judgments. Based on anecdotal evidence, Chinese judges are increasingly turning to these resources for assistance with hard cases (Liebman and Wu, 2007, p. 293; Stern, 2010, p. 92).[12]

Despite these developments, some Chinese scholars remain deeply suspicious of the idea that cases should inform judicial decision-making. According to them, consultation of anything other than the enacted statute will weaken the authority of law and diminish the institutional credibility of the judiciary (Luo, 2012, p. 12). Furthermore, because Chinese judgments lack detailed legal reasoning, they are unlikely to be of much assistance in resolving novel issues of law. (Luo, 2012, p. 12). Finally, Chinese judges assimilated to the civil law tradition are ill-suited to the task of finding and interpreting judicial opinions (Zhang, 2002, pp. 112; Liang, 2007, pp. 155–156).

Amidst this debate, both data on and theorization of the influence of prior judicial decisions of Chinese courts on same-level courts remains scant. For example, Zuo (2015) was primarily interested in vertical, rather than horizontal, precedent. Nevertheless, it is telling that 15% of the 1367 judges surveyed thought that cases disseminated in the Gazette of Chinese Supreme People's Court and Case Guidance of Sichuan Higher People's Court were not binding while 48.5% agreed that "judges need not and should not resort to precedent because China is not a case law jurisdiction."

---

10 Zuigao Renmin Fayuan Yinfa "Guanyu Sifa Gongkai de Liuxiang Guiding" he "Guanyu Renmin Fayuan Jieshou Xinwen Meiti Yulun Jiandu de Ruogan Guiding" de Tongzhi [Notice of the Supreme People's Court on Issuing the Six Provisions on Judicial Openness and Several Provisions on the People's Courts' Exposure to Public Supervision through Mass Media] (Promulgated by the Supreme People's Court, Dec. 8, 2009, effective Dec. 8, 2009), http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=125149.

11 This figure is as of May 14, 2016.

12 This is corroborated by conversations that we had with several court clerks.

Two other large-scale studies of judges did not distinguish between judgments of the same, or higher, court and those originating from sister courts (Dong, 2015). The first, carried out in 2004, surveyed 130 judges from courts at various levels in Guangdong Province (Dong, 2015, pp. 169–170). 9.8% of respondents deemed cases as having no influence on their decision-making process whereas 52.3% of respondents perceived cases as "barely influenc[ing] their decisions," referring to them only "when there is any unsolved problem." 25% of the respondents, however, indicated that "prior judgments have significant influence" and "[t]hey will check if their opinions are consistent with prior judgments before making final decisions." The second, conducted by the same researcher in Zhuhai Municipality of Guangdong Province in 2007, found that more than 90% of the respondents paid attention to prior judgments (Dong, 2015, pp. 170–171). In the absence of a relevant statute or an official interpretation by the Chinese Supreme People's Court, approximately 80% of respondents would search for prior judgments while 20% would seek advice from legal scholars.

In sum, while empirical research on the influence of Chinese courts on each other is at an early stage, it is fair to say that the Chinese judges, unlike their counterparts in common law jurisdictions, are fractured over the influence that cases do and should have in judicial decision-making. An inquiry into the existence, extent, and nature of such influence does not only yield interesting comparative insights; it also interrogates a premise that is fundamental to the thesis of judicial diffusion.

Methodological choice

The phenomenon of judicial diffusion could be illustrated and understood by isolating a legal policy and identifying the salient characteristics of early as opposed to late adopters. Canon and Baum (1981) and Lutz (1997) explore the spread of innovations in the common law of torts by focusing on the order of their adoption by American state supreme courts. Glick (1992) takes the same approach to the right to die. Bird and Smythe (2008, 2012) build on these foundations, employing time hazard methods to identify the factors that affect a state judiciary's adoption of three employment doctrines and the strict liability rule for manufacturing defects.[13] An analytically similar study on judicial interpretations of a federal sexual harassment statute was carried out by Moyer and

13 They find that federal courts "may generally provide an important 'echo chamber' for state court opinions within their circuit."

Tankersley (2012) for the United States Courts of Appeals.[14] But these methods assume influence and do not demonstrate it.

A different approach is to look at all citations of one court by another. Harris (1982, 1985), Caldeira (1985, 1988), and Hinkle and Nelson (2016) examined interstate citations in the United States.[15] Solberg et al. (2006) performed the same analysis for the United States Court of Appeals.[16] More recently, Smyth and Mishra (2011) have attempted an articulation of a cross-national theory of judicial decision-making by applying the same framework to the Australian State Supreme Courts.[17]

It is doubtful whether citations are reliable indicators of influence since "the pervasiveness of precedents in judicial rhetoric [in common law jurisdictions] may be more indicative of a normative expectation that all arguments be couched in terms of precedent than a determining cause of decisions" (Phillips and Grattet, 2000, p. 596).[18] But we need not delve too deeply into this issue here because Chinese judgments tend to be short and terse, and rarely, if ever, refer to other cases.[19] For example, a survey of 105 judges conducted in 2014 by the China Guiding Cases Project at Stanford University found that of the 57 judges who have considered Guiding Cases in the course of adjudication, 32 of them "did not explicitly specify, quote or paraphrase any [Guiding Cases] or any parts of [Guiding Cases]" while 25 "quoted or paraphrased relevant part(s) of

14 They find ideological distance between panel and Supreme Court, gender composition of the panel, and legal capital to be the most important determinants of adoption.

15 The general conclusion is that prestige, physical and cultural proximity, and coverage by the same West reporter are key determinants of relative citation frequencies.

16 They find that out-of-circuit citations are more likely when there is less legal capital in the circuit, when there is more dissensus in the circuit, and when the issue is one of first impression.

17 They find physical proximity and a majority of both courts being appointed by conservative governments to have a positive effect on the transmission of legal precedent.

18 Glick (1992) notes that "even very heavy citation may not indicate clear policy direction or the influence of one court on another." Walsh (1997) concludes that while "legal citations are meaningful and useful data", strong citations are more indicative of substantive influence on case outcomes.

19 For instance, in one of its internal documents dated October 28, 1986, the Chinese Supreme People's Court admonished that "[a]ll opinions and instructions given by the Supreme People's Court on the application of laws shall be followed, but it is not appropriate, however, to cite them directly." We note, however, that since 2015, lower courts have been permitted – and indeed, are obliged to – quote the serial number and reasoning of the Guiding Cases that they rely on. Zuigao Renmin Fayuan Guanyu Anli Zhidao Gongzuo De Guiding Shishi Xize [Detailed Rules for the Implementation of the Provisions of the Supreme People's Court on Case Guidance], art. 10, 11, issued by the Supreme People's Court on May 13, 2015, available at: http://en.pkulaw.cn/display.aspx?cgid=249447&lib=law.

[Guiding Cases] they considered, without explicitly specifying that the part(s) is/are from [Guiding Cases].” (Gechlik, Philips and Lee, 2014).

Thus, we take, in contrast to the existing literature, an experimental approach to assessing the influence of the judgments of sister courts on Chinese judges. This methodological choice not only overcomes a major obstacle to studying judicial diffusion in a jurisdiction that is still wedded to the civil law tradition; it also allows us to make claims that cannot be substantiated by case studies alone.

Research design

The influence of a prior judicial decision on judge *i* may be represented formally as

$$T_i = Y_i(1) - Y_i(0)$$

where $Y_i(1)$ is the outcome of interest (e. g. interpretation of a statute, length of sentence) under treatment, $Y_i(0)$ is the outcome of interest under control, and treatment is the citation of such a prior judicial decision to the judge.

Between July and August 2015, we contacted approximately 400 judges[20] from 19 courts in 10 Chinese regions[21] for their views on recent legal developments. These courts had previously agreed to participate in the survey.

The survey instrument contained an experimental element that involved a hypothetical case based on Article 232 of the Chinese Criminal Law (1997) and Article 20 of the Opinion Regarding Family Violence Cases (2015) (“Opinion”) issued by the Chinese Supreme People’s Court.[22] The former states:

> whoever intentionally kills another is to be sentenced to death, life imprisonment, or not less than 10 years of fixed-term imprisonment; when the circumstances are relatively

20 The term “judge” could refer to presidents and vice presidents of the court, members of the adjudication committees, chief judges and associate chief judges of divisions, judges, and assistant judges. We note that not all members of the court who are referred to as “judges” are involved in adjudication (Li, 1998; Clarke, 2003). For example, more than half of the “judges” in the nine basic people’s court studied in Li (1998) did not actually function as judges. The presidents of the courts did not hear cases while the chief judges of the divisions did so only rarely. Furthermore, 12% of “judges” only handled administrative matters, such as clerical tasks, accounting, and execution of judgments. The judges we surveyed are mostly judges and assistant judges who are regularly engaged in adjudication.

21 The regions are Beijing, Fujian, Guangdong, Hainan, Jiangsu, Jiangxi, Shandong, Shanghai, Tianjin, and Zhejiang.

22 These interpretations carry “full legal force.” Zuigao Ren-min Fayuan Guanyu Sifa Jieshi Gongzuo De Guiding [Provision of the Supreme People’s Court on the Judicial Interpretation Work], art. 5, available at: http://en.pkulaw.cn/display.aspx?cgid=89508&lib=law.

> minor, he is to be sentenced to not less than three years and not more than 10 years of fixed-term imprisonment.

The latter provides that "fatal retaliation by a *long-term* (*changqi*) [emphasis added] victim of domestic abuse against the abuser *may be* (*keyi*) [emphasis added] eligible for sentence mitigation." We note that the law therefore grants to judges the authority to reduce the sentence of such a defendant, but does not compel them to do so. All judges were presented with the original legal materials and the following case facts:

> Hong Xiao (girlfriend) and Ming Li (boyfriend) had lived together for three months. During the period of cohabitation, Hong Xiao was often assaulted by Ming Li. Afraid of breaking-up, yet unable to bear Ming Li's abuse, Hong Xiao stabbed Ming Li while he was sleeping, killing him.

In addition, judges randomly assigned to treatment[23] were given the supplementary information:

> A court in Henan Province recently heard a similar case (there, the girlfriend and boyfriend had cohabited for two months) and gave the female criminal a lenient sentence.

Judges were then asked if the leniency provision of Article 20 of the Opinion is applicable to the facts before them, and the length of the sentence they would impose.

Our choice of legal issue in this scenario was informed by two major considerations. First, interviews and surveys of judges suggest that the judicial decisions of other courts are most helpful when the issue being presented is one of first impression (Dong, 2015; Liebman and Wu, 2007, p. 293). Second, a case concerning a salient social problem, domestic violence, is likely to lead to a higher response rate from this rarely sampled population.

In addition, we asked each judge for his or her gender, length of judicial service, academic background, and bar passage. Given the heterogeneity among Chinese judges,[24] information on these variables enables us to identify characteristics that are associated with treatment effects.

---

23 The form of randomization deployed is complete randomization.

24 Traditionally, Chinese judges do not need to have any specialized education or certification to hold office (Clarke, 2003), although judges in some regions were required to pass internal examinations that were administered by the courts (Ahl, 2006). Before the passage of the Judges Law of the People's Republic of China ("Judges Law") in 1995, judges could be classified into one of three types: (1) army veterans, (2) transferred officials, and (3) college graduates (Liu, 2006, pp. 82–83). Until recently, the first two types comprised the majority of judges. For example, between 1978–1995, only 19.4% of the new judges hired in a basic people's court were college graduates (Liu, 2006, pp. 82–83). Li (1998) likewise discovered that only 3% of incumbent judges in nine basic people's courts had graduated from law school. Whereas the

If Chinese judges are influenced by prior judicial decisions, one should expect their interpretation of the Opinion to be influenced by treatment. Furthermore, if sentencing is guided by judges' application of the relevant legal standards, one should expect treatment to reduce the sentences awarded by judges who are already sympathetic to the defendant.

Results and analysis

407 completed responses (out of 488 surveys fielded) were returned. The distribution of the 4 covariates – gender, length of judicial service, academic background, and bar passage – are presented in Table 1.

Table 1: Distribution of judge covariates.

Gender	Total	Proportion
Male	207	0.51
Female	199	0.49
Experience		
< 5 Years	187	0.46
5–10 Years	100	0.2475
10–15 Years	55	0.1325
> 20 Years	64	0.16
Academic Background		
Bachelor	180	0.4425
Masters	205	0.51
Doctorate	5	0.0125
Continuing	14	0.035
Bar Passage		
Passed	326	0.8075
Yet to Pass	79	0.1925

Judges Law raised the standards for judges appointed after 2002, judges who were already serving before the implementation of the Judges Law could remain on bench by attending trainings. In 2011, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Justice introduced measures requiring judges appointed for the first time to have passed the bar examination (*sifa kaoshi*).

203 judges were assigned to treatment and 204 to control. As a check for covariate balance, we ran t and Kolmogorov-Smirnov tests for each covariate. The p-values, depicted in Figure 1, suggest that the randomization succeeded in achieving covariate balance between both groups.

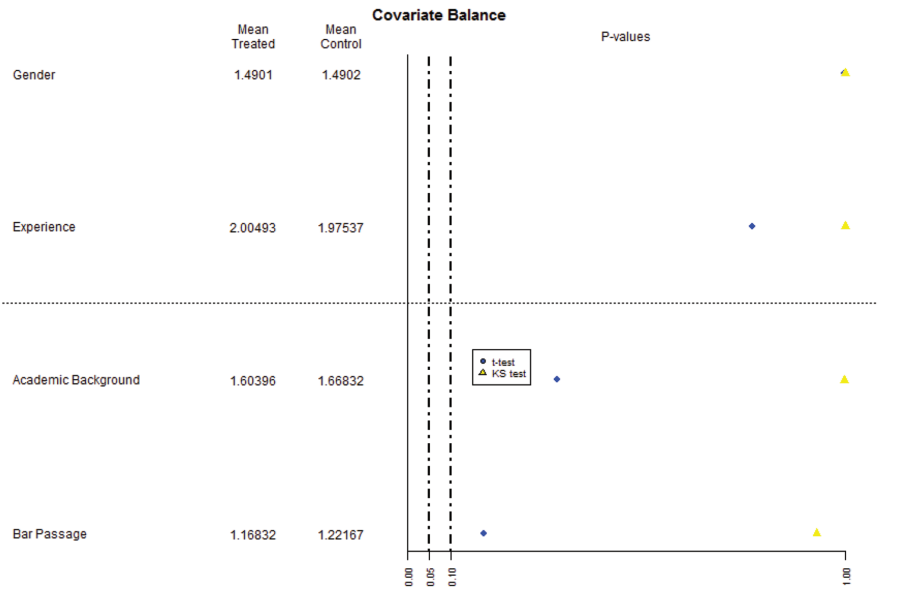

Figure 1: Covariate balance between treatment and control groups.

Of the 203 judges in the treated group, 161 agreed that a lenient sentence would be warranted pursuant to Article 232 of the Chinese Criminal Law (1997) and Article 20 of the Opinion, 32 expressed a contrary view and 10 declined to respond. The corresponding numbers for the 204 judges in the control group are 145, 51, and 8.

We first test the hypothesis that treatment has no effect on any judge, that is,

$$Y_i(1) = Y_i(0)$$

for all i, finding that the null hypothesis may be rejected at conventional levels of significance ($p = 0.026$, Fisher's exact test, two-sided; $p = 0.023$, Pearson χ^2, two-sided). We also estimate the sample average treatment effect by adopting a linear probability model and regressing interpretation of the rule on treatment and other variables.[25] A response that the defendant qualifies for consideration

25 See generally Gelman and Hill (2006, pp. 167–181). The ordinary least squares estimate is not an unbiased estimator for the average treatment effect once covariates are included in the

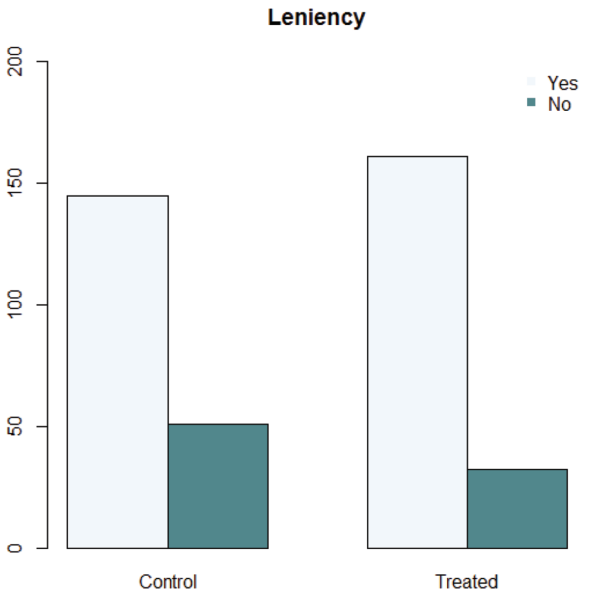

Figure 2: Distribution of judges' responses to leniency question.

for leniency is coded as "1" whereas a contrary response is coded as "0." The Ordinary Least Squares estimates for the coefficients and robust standard errors are laid out in Table 2.

These results indicate that treatment had an effect on how judges interpreted the Opinion. In particular, judges informed about the holding of the Henan court tended to agree that the sentence of a victim of domestic abuse who had fatally retaliated against her boyfriend after three months of cohabitation could be mitigated.

Re-estimating the full model, this time including interaction terms between treatment and every covariate, we find that the treatment effect is not uniform across subgroups: judges who have yet to pass the bar are more likely to resist the prior judicial decision while judges who have passed the bar are more likely to be swayed by it (Table 3).[26]

regression. It is, however, still consistent (Imbens and Rubin, 2015). Moreover, Green and Aronow (2011) demonstrate, in an unpublished manuscript, that "bias tends to be negligible when the sample size is greater than 20."

26 We note, out of abundance of caution, that the heterogeneity in treatment effect indicates that passage of the bar examination is a predictor of a judges' susceptibility to the influence of prior judicial decisions from sister courts; it does not establish causation.

Table 2: OLS regression of judges' interpretation on treatment and other covariates.

Dependent Variable	Interpretation	Interpretation	Interpretation
(Intercept)	0.740***	0.689***	0.859***
	(0.031)	(0.055)	(0.072)
Treatment	0.094*	0.096*	0.102*
	(0.041)	(0.043)	(0.041)
Female		0.004	0.015
		(0.044)	(0.044)
Experience: 5–10 Years		0.045	0.034
		(0.053)	(0.052)
Experience: 10–20 Years		0.122*	0.125*
		(0.057)	(0.062)
Experience: >20 Years		0.086	0.055
		(0.067)	(0.071)
Education: Masters		0.028	0.005
		(0.051)	(0.053)
Education: Doctorate		0.229***	0.118
		(0.053)	(0.070)
Education: Continuing		−0.137	−0.128
		(0.138)	(0.135)
Yet to Pass Bar		−0.020	−0.003
		(0.068)	(0.068)
Court Fixed Effects	No	No	Yes
N	389	382	382
RMSE	0.408	0.408	0.396
R^2	0.013	0.031	0.132

*$p \leq 0.05$ **$p \leq 0.01$ ***$p \leq 0.001$

Table 3: OLS regression of judges' interpretation on treatment and other covariates, interacted.

Dependent Variable	Interpretation
(Intercept)	0.783***
	(0.097)
Treatment	0.206*
	(0.098)
Female	−0.032
	(0.069)
Experience: 5–10 Years	0.094
	(0.082)
Experience: 10–20 Years	0.079
	(0.103)

(*continued*)

Table 3: (*continued*)

Dependent Variable	Interpretation
Experience: > 20 Years	0.063
	(0.117)
Education: Masters	0.085
	(0.085)
Education: Doctorate	0.220*
	(0.106)
Education: Continuing	−0.296
	(0.229)
Yet to Pass Bar	0.188
	(0.109)
Treatment and Female	0.101
	(0.088)
Treatment and Experience: 5–10 Years	−0.126
	(0.107)
Treatment and Experience:10–20 Years	0.068
	(0.116)
Treatment and Experience: > 20 Years	−0.003
	(0.137)
Treatment and Education: Masters	−0.131
	(0.100)
Treatment and Education: Doctorate	−0.091
	(0.152)
Treatment and Education: Continuing	0.284
	(0.279)
Treatment and Yet to Pass Bar	−0.374**
	(0.136)
Court Fixed Effects	Yes
N	382
RMSE	0.394
R^2	0.160

*$p \leq 0.05$ **$p \leq 0.01$ ***$p \leq 0.001$

At the sentencing stage, judges who believed leniency to be legally warranted, regardless of assignment to treatment or control, sentenced less harshly. However, we cannot reject the null hypothesis that treatment had no effect on the length of the sentences meted out by any judge ($p = 0.622$, Fisher's exact test, two-sided; $p = 0.614$, Pearson χ^2, two-sided). The regression estimates for the sample average treatment effect on length of sentences are also statistically indistinguishable from zero (Table 4).[27]

27 The results for a multivariate regression on both outcome variables are presented in Table 6.

Table 4: OLS regression of judges' sentence on treatment and other covariates.

Dependent Variable	Sentence (Years)	Sentence (Years)	Sentence (Years)
(Intercept)	7.173***	7.438***	9.372***
	(0.203)	(0.395)	(1.160)
Treatment	−0.053	−0.146	−0.202
	(0.287)	(0.296)	(0.291)
Female		−0.594*	−0.588*
		(0.292)	(0.293)
Experience:		0.750	0.451
5–10 Years		(0.397)	(0.367)
Experience:		0.656	0.450
10–20 Years		(0.432)	(0.465)
Experience:		1.274**	0.766
> 20 Years		(0.494)	(0.562)
Education: Masters		−0.447	−0.319
		(0.359)	(0.364)
Education: Doctorate		−0.892	−1.348
		(1.253)	(1.323)
Education:		−0.671	−0.235
Continuing		(0.778)	(0.883)
Yet to Pass Bar		−0.728	−0.662
		(0.491)	(0.537)
Court Fixed Effects	No	No	Yes
N	327	322	322
RMSE	2.600	2.577	2.506
R^2	0.000	0.051	0.154

*$p \leq 0.05$ **$p \leq 0.01$ ***$p \leq 0.001$

External validity

Could one infer, on the basis of a survey experiment conducted on a non-random subset of courts, the response of the average Chinese judge to the citation of previous judicial decisions? There are certainly reasons for caution. The interaction occasioned by the survey is brief and in the absence of intrinsic motivation, respondents might be tempted to satisfice by, for instance, agreeing with any asserted statement or endorsing the status quo rather than social change (Krosnick, 1991). Furthermore, it is not clear if the sample that selected itself into the experiment is representative of the population of Chinese judges. Although not nationally representative, the China Guiding Cases Project reports that of the approximately 5000 judges sitting in the Basic People's Courts or Intermediate People's Court of a city in South China, "85 % have bachelor of law

degrees ..., 30 % have master of law degrees, and 0.4 % have doctorates." In comparison, 50.7 % of our respondents have a master degree as their highest qualification.

But there are some grounds for believing that the results presented here are generalizable. First, the survey is short and the number of involved queries, few. Thus, the cognitive load on respondents is unlikely to induce satisficing behavior. Moreover, though not randomly drawn from the overall population, we note that except for those who have yet to pass the bar, judges exhibited qualitatively similar responses to treatment. Our estimates might be biased as estimates for the population average treatment effect if judges who have yet to pass the bar are over or under-represented in our sample. But we suggest that this concern, while valid, is mitigated by the small proportion of judges who have yet to pass the bar (in the overall population) and their concentration in an older generation of judges. Lastly, the stimulus administered in the experiment is not too far removed from the situation faced by a judge in an adjudicative setting. As we have already observed, Chinese judicial opinions tend to be short on legal reasoning and a judge is unlikely to learn anything more from studying a previous case than its facts and the final outcome.

In conclusion, it is probably fair to say that cases decided by sister courts have *de facto*, if not *de jure*, influence on Chinese judges.

Mechanisms

What, then, explains the experimental findings? We should first address a concern that our results are being driven, in the main, by an experimental demand effect. That is, the judges surveyed may have conformed their responses to the hypothesis being tested so as to please the experimenters who assume, for the purposes of the experiment, an authoritative role (Zizzo, 2012). We hazard, however, that this is unlikely to be the case here. As a preliminary matter, demand effects are likely to be attenuated in a between-subjects design like the one here (Charness et al., 2012). While it remains true that "in social encounters, including laboratory experiments, most are engaged in a constant search for cues about how they are supposed to behave" (Loewenstein, 1999, p. 30) the familiarity of the adjudicative task to serving judges should reduce their reliance on the experimental element as a source of hints on how they should act. Moreover, as the anonymized survey responses were completed by the judges in the privacy of their chambers and returned to us in sealed envelopes through court intermediaries, the risk that judges might succumb, consciously or

otherwise, to any perceived signals from us is slight. Finally, given that the ambivalence about the legal status of prior judicial decisions from sister courts among Chinese jurists, there is little reason for judges to deem one response as being more appropriate than another. Insofar as the judges are aware that the citation of the prior judicial decision of a sister court is an attempt to persuade them to rule similarly (and they are so persuaded for factors to be discussed later), this is the treatment that we seek to administer and one that corresponds to the objective of legal advocacy outside of the experimental context.

Another contending explanation is anchoring – the tendency for responses to be biased in favor of an initially suggested value, or anchor. To illustrate, a series of experiments has shown that a plaintiff's demand for damages exerts immense influence over the amount of damages eventually awarded in both environmental and personal injury cases (Malouff and Schutte, 1989; Chapman and Bornstein, 1996; Hastie et al., 1999; Marti and Wissler, 2000). These effects have also been observed even when the anchor is irrelevant to the issue at hand. A frivolous motion to dismiss for failure to meet a jurisdictional amount in controversy requirement reduced the damages found by United States magistrate judges in a hypothetical scenario (Guthrie et al., 2001). More strikingly, random values generated by a roll of the dice affected the sentencing decision of German legal professionals to the same extent that relevant anchors did (Englich et al., 2006). A recent contribution to this body of literature extends these insights to the interpretation of vague legal standards (Feldman et al., 2016). When presented with a list of measures that a water company could have taken to maintain a sewage system, students exposed to examples applying the negligence rule to the costliest option set the standard of care higher than did those exposed to examples applying the negligence rule to the least costly option. Similarly, the amount suggested by the controlling shareholder of a trading company to its board swayed the judgment of lawyers as to the maximal dividend that a court would approve under a solvency test. The same phenomenon could be occurring here, in that the mention of "three months" in the facts of the case from the Henan court might have served to anchor the duration of cohabitation that judges consider to be "long-term".

Yet another alternative explanation for our findings, one that does not necessarily rule out anchoring, is judges regarding prior judicial decisions as having some precedential value.[28] There are several individual and institutional

28 As used here, having precedential value means that prior judicial decisions are a *pro tanto* reason for deciding an analogous case similarly. We add that anchoring and regarding prior judicial decisions as having precedential value may interact. The latter could amplify the influence of former while the former could be the mechanism that translates the latter into tangible outcomes. The distinction is therefore one of relevance. Although the literature on

reasons for adherence to prior judicial decisions: fairness, predictability, efficiency, and credibility. The first, fairness, is the idea that like cases should be treated alike. It seems intuitively unfair that a defendant's fate should hinge on the judge assigned to his case rather than on its facts. The second, predictability, emphasizes the value of stability. Since people arrange their affairs in anticipation of the legal consequences, it may be "better that the law be certain than that every judge should speculate upon improvements."[29] The third, efficiency, is the argument that channeling decisional energies away from settled cases conserves scarce judicial resources (Macey, 1989, p. 111; Farber, 2006, p. 1177). The fourth, credibility, refers to the legitimacy that courts derive from acting consistently (Epstein and Knight, 1998, p. 544; Schauer, 1987). As Liebman and Wu (2007, 319) argued in the context of China,

> the legitimacy and power of courts stems in part from their adherence to higher or neutral principles ... in a developing legal system the search for such rules may be more difficult. That is why the simplest principle of all – acting as other courts or judges have done – is so important. Lacking any other particular claim to legitimacy, the judge may at least say that the court is acting in a manner consistent with what other courts have done. Courts and legal systems that treat like cases alike would appear both more deserving of and more likely to receive public trust.

There are also other incentives, unique to the Chinese legal system, for taking note of cases. For Chinese judges, who are subject to the internal supervision of their hierarchical superiors and external interference by political actors (He, 2012; Woo, 1999), a prior judicial decision that has been left undisturbed could signal the political acceptability of a certain legal disposition.

To further examine the nature of the influence of prior judicial decisions on Chinese judges, we fielded a second survey that targeted students in Chinese law schools. This survey featured the same experimental element as the one designed for judges.[30] If judges regard cases as having precedential value by virtue of their institutional role or because of socialization, the influence of prior

anchoring has not come to a firm verdict about the relationship between the relevance of the anchor and the size of anchoring effects (Englich and Mussweiler, 2001; Glöckner and Englich, 2015), treating prior judicial decisions as having precedential value means, at least, that pedigree matters (Schauer, 1987).

29 *Sheddon v. Goodrich*, 8 Ves. 481, 497, 32 Eng. Rep. 441, 447 (1803).

30 The actual experiment had three arms: students were assigned to either control, treatment that attributed the stimuli to a criminal law professor based in Henan University ("academic"), or treatment that attributed the stimuli to a court in Henan Province ("judicial"). We introduced the academic arm as a pilot for a separate study. The analysis of this arm has therefore been omitted from the manuscript.

judicial decisions should be felt more strongly among them than among law students.

The instrument was administered online through Qualtrics in October 2015, and a total of 385 completed responses were returned.[31] Pooling these and the earlier responses, we estimated separate linear probability models for both outcome variables that included, as dependent variables, an indicator for treatment, an indicator for judges, and an interaction between these two indicators (Table 5).[32] As the coefficient on the interaction term is statistically indistinguishable from zero, we conclude that the stimulus had a uniform effect on judges and law students alike. This finding tells against the hypothesis that Chinese judges have, due to their situation or environment, developed a special regard for the prior judicial decisions of sister courts.

Table 5: OLS regression of pooled responses to interpretation and sentence on treatment.

Dependent Variable	Interpretation	Sentence (Years)
(Intercept)	0.702***	6.559***
	(0.035)	(0.198)
Treatment	0.135**	−0.240
	(0.043)	(0.268)
Judge	0.038	0.614*
	(0.047)	(0.284)
Treatment and Judge	−0.040	0.187
	(0.060)	(0.393)
N	774	710
RMSE	0.410	2.604
R^2	0.020	0.020

*$p \leq 0.05$ **$p \leq 0.01$ ***$p \leq 0.001$

Discussion

To revisit our main result, judges apprised of the decision of the Henan court to grant leniency to a defendant who had co-habited with her boyfriend for two months were, on average, more inclined than judges who had not been so apprised to classify a cohabitation term of three months as "long-term" and hence, falling inside the ambit of the Opinion. Two features of the data merit

31 The total number of completed responses collected across all three arms is 558.

32 The results for a multivariate regression on both outcome variables is presented in Table 7.

Table 6: Multivariate OLS regression of judges' interpretation and sentence on treatment and other covariates.

Dependent Variable	Interpretation	Sentence (Years)	Interpretation	Sentence (Years)	Interpretation	Sentence (Years)
(Intercept)	0.752***	7.158***	0.698***	7.433***	0.854***	9.375***
	(0.031)	(0.202)	(0.054)	(0.353)	(0.100)	(0.648)
Treatment	0.097*	−0.031	0.103*	−0.134	0.108*	−0.212
	(0.044)	(0.289)	(0.045)	(0.295)	(0.045)	(0.290)
Female			−0.019	−0.580	−0.002	−0.586
			(0.046)	(0.298)	(0.046)	(0.299)
Experience:			0.038	0.742*	0.027	0.455
5–10 Years			(0.056)	(0.365)	(0.056)	(0.363)
Experience:			0.099*	0.651	0.071	0.452
10–20 Years			(0.072)	(0.466)	(0.073)	(0.472)
Experience:			0.056	1.252*	0.004	0.786
> 20 Years			(0.086)	(0.559)	(0.090)	(0.588)
Education: Masters			0.056	−0.450	0.029	−0.317
			(0.051)	(0.332)	(0.054)	(0.350)
Education: Doctorate			0.230	−0.890	0.103	−1.372
			(0.183)	(1.187)	(0.182)	(1.184)
Education: Continuing			−0.178	−0.594	−0.155	−0.025
			(0.127)	(0.822)	(0.128)	(0.833)
Yet to Pass Bar			0.035	−0.752	0.041	−0.670
			(0.082)	(0.534)	(0.084)	(0.547)
Court Fixed Effects	No	No	No	No	Yes	Yes
N	323	323	318	318	318	318
RMSE	0.400	2.600	0.398	2.580	0.386	2.509
R^2	0.015	0.000	0.037	0.050	0.146	0.154

*$p \leq 0.05$ **$p \leq 0.01$ ***$p \leq 0.001$

Table 7: Multivariate OLS regression of pooled interpretation and sentence on treatment.

Dependent Variable	Interpretation	Sentence
(Intercept)	0.706***	6.559***
	(0.031)	(0.200)
Treatment	0.130**	−0.240
	(0.042)	(0.268)
Judge	0.046	0.599*
	(0.044)	(0.285)
Treatment and Judge	−0.033	0.209
	(0.062)	(0.395)
N	706	706
RMSE	0.406	2.604
R^2	0.021	0.020

*$p \leq 0.05$ **$p \leq 0.01$ ***$p \leq 0.001$

further discussion and research. First, judges who have yet to pass the bar did not respond to treatment. Anecdotal evidence suggests that their non-responsiveness is due to a firmly entrenched conviction, exhibited in the discharge of their regular judicial duties, that cases are to be excluded from the search for statutory meaning.[33]

Second, judges who were treated did not seem to have lightened their sentences. The cause of this is harder to fathom. If an experimental demand effect were the *explanans* for the main result, then the judges who gave in to a perceived expectation that they find the defendant eligible for leniency should also have been (socially) nudged into handing down lower sentences. Furthermore, if the judges' understandings of "long-term" were anchored by the allusion to "three months" in the stimulus, then we should also expect, on some theories of anchoring, that the sentences should have been biased downwards as well. For example, even if judges did not make an active effort at applying the appropriate legal standard, the search for confirmatory evidence that cohabitation of two to three months qualified as "long-term," and hence for leniency, should have activated information supporting sentence mitigation (See Strack and Mussweiler, 1997).

33 This is the general view expressed by a judge in one of the participating courts that the authors managed to re-contact after the survey responses had been collected and analyzed. As the survey responses are anonymized, we are unable to know whether this judge completed the survey and if so, whether he or she had been assigned to treatment or control.

On the other hand, it is conceivable that because the anchor was communicated in months while the sentence in years, the application of "long-term" to the facts of the case, also communicated in months, was anchored whereas sentencing was not. An articulation of a scale distortion theory of anchoring demonstrated, for instance, that estimating the weight of a blue whale in pounds affected a subsequent judgement of the weight of a giraffe in pounds, but the same activity conducted in tons did not (Frederick and Mochon, 2011, p. 4).[34] If this mechanism is the operational one, then the anchoring effect observed here is "shallow" in that its "[influence] on responses ... [is] unaccompanied by any corresponding effects on the mental representations of the object being evaluated" (Mochon and Frederick, 2013, p. 70; see also; Lynch et al., 1991).[35]

Finally, it may just be that judges, like law students, see a prior judicial decision as offering a plausible interpretation of an ambiguous legal standard, one that is *prima facie* acceptable.[36] But since the rule here is permissive rather than mandatory, respondents may not have found the defendant sufficiently sympathetic as to move them to exercise their discretion for her benefit.

Conclusion

The Chinese courts operate in a complex political environment. The pressure of public opinion (Ji, 2013), the resources of local elites (Clarke, 1995; He, 2011; Lubman, 1999; Randall, 2002), and the leverage of local governments (Fu, 2015, pp. 171–173, 186; Stern, 2010) could relegate the influence of cases to the background. That said, fluid incentives, legal uncertainty, and political ambiguity can combine to reserve to judges a certain measure of discretion in cases that are not so salient (Stern, 2010). In such circumstances, the influence exerted by sister courts on one another might facilitate the spread of policy across jurisdictions through the transmission of doctrines or interpretations.

34 See also Rachlinski, et al. (2015 p. 717) ("Anchors distort the sense of scale that facilitates a reliable translation of a qualitative sense of the appropriate sentence into a numeric sentence. So too does the actual scale. Apparently, 12 months seems different to judges than 1 year.")

35 While our experimental design does not allow us to identify the cognitive process, or processes (Bahnik and Strack, 2016, p. 97), driving anchoring here, we note that our findings are reminiscent of those of Brewer et al. (2007) where the assessment of patients and physicians of risk were anchored, but their treatment choices in the face of that risk were not. Given that anchoring has been shown to bias legal decision-making in a variety of settings, the robustness of these results across different decisional contexts should be the subject of more intensive study.

36 We thank Christoph Engel for this suggestion.

The force and content of such diffusion rest on both the extent and the nature of the influence exerted by prior judicial decisions. Whether judicial diffusion is normatively desirable also cannot be answered without reference to the same considerations. If judges are influenced by judgments coming out of other courts because the doctrine or interpretation approved of has been scrutinized and found desirable or sustainable, then judicial diffusion may result in more informed policy-making. But if judges defer to prior judicial decisions unreflectively, there is a risk of "precedential cascades" (Talley, 1999) that perpetuate and entrench inefficient legal rules.

This project adopted an experimental approach to evaluating the influence of judicial decisions by sister courts on Chinese judges, finding that citation of a case out of Henan Province had a substantial and statistically significant effect on whether judges believed there to be a legal basis for mitigating the sentence of a similarly-situated criminal defendant. It did not, however, lead to a reduction in the length of sentences awarded by judges. A second iteration of the survey experiment suggests that the influence of prior judicial decisions on judges and law students is indistinguishable, implying that role and environment are unlikely to be the explanation for the main result.

While we recognize that there is some distance between a controversy in the courtroom and a case out of a survey, this experiment has uncovered some questions for further study. Future research should examine more closely the nature of the influence that prior judicial decisions exert on judges in both common law and civil law jurisdictions (See Spamann and Klöhn, 2016).

Acknowledgments: The authors are grateful to Robert Cooter, Ryan Copus, Liqiang Ding, James Hicks, Valerie Hans, Melissa T. Lonegrass, Xiaofu Li, Julian Nyarko, Kevin M. Quinn, Bertrall Ross, Martin M. Shapiro, Ronald J. Scalise, Jr, William James Welsh, and Shangdong Yang for helpful discussions and valuable comments on earlier drafts of this article.

References

Ahl, B. 2006. "Advancing the Rule of Law through Education? an Analysis of the Chinese National Judicial Examination," 42 *Issues and Studies* 171–204.

Bahnik, S., and F. Strack. 2016. "Overlap of Accessible Information Undermines the Anchoring Effect," 11 *Judgment and Decision Making* 92–98.

Bird, R.C., and D.J. Smythe. 2008. "The Structure of American Legal Institutions and the Diffusion of Wrongful-Discharge Laws, 1978–1999," 42 *Law and Society Review* 833–864.

Bird, R.C., and D.J. Smythe. 2012. "Social Network Analysis and the Diffusion of the Strict Liability Rule for Manufacturing Defects, 1963-87," 37 *Law and Social Inquiry* 565–593.

Brewer, N.T. et al. 2007. "The Influence of Irrelevant Anchors on the Judgments and Choices of Doctors and Patients," 27 *Medical Decision Making* 203–211.

Caldeira, G. 1985. "The Transmission of Legal Precedent: A Study of State Supreme Courts," 79 *American Political Science Review* 178–194.

Caldeira, G. 1988. "Legal Precedent: Structures of Communication between State Supreme Courts," 10 *Social Networks* 29–55.

Canon, B.C., and L. Baum. 1981. "Patterns of Adoption of Tort Law Innovations: An Application of Diffusion Theory to Judicial Doctrines," 75 *American Political Science Review* 975–987.

Chapman, G.B., and B.H. Bornstein. 1996. "The More You Ask For, the More You Get: Anchoring in Personal Injury Verdicts," 10 *Applied Cognitive Psychology* 519–540.

Charness, G., U. Gneezy, and M.A. Kuhn. 2012. "Experimental Methods: Between-Subject and Within-Subject Design," 81 *Journal of Economic Behavior & Organization* 1–8.

Cho, Y.N. 2008. *Local People's Congresses in China: Development and Transition*. New York: Cambridge University Press.

Clarke, D. 1995. "The Execution of Civil Judgments in China," 141 *China Quarterly* 65–81.

Clarke, D.C. 2003. "Empirical Research into the Chinese Judicial System," in *Beyond Common Knowledge: Empirical Approahes to the Rule of Law*. Erik G. Jensen and Thomas C. Heller. Palo Alto: s.n., 164–193.

Cui, M. 1988. ""Panlifa" Shi Wanbei Fazhi De Zhongyao Tujin ["Precedent" Is an Important Way to Perfect the Legal System]," *Faxue [Law Science]* 8–12.

Dong, H. 2015. *Panli Jieshi Zhi Bianqian Yu Chonggou: Zhongguo Panli Jieshi Fazhan Yu Goujian Zhilu [The Revolution and Reconstruction of Precedent Interpretation: The Road of Development and Construction of Chinese Precedent Interpretation]*. Beijing: China University of Political Science and Law Press.

Englich, B., and T. Mussweiler. 2001. "Sentencing under Uncertainty: Anchoring Effects in the Courtroom," 31 *Journal of Applied Social Psychology* 1535–1551.

Englich, B., T. Mussweiler, and F. Strack. 2006. "Playing Dice with Criminal Sentences: The Influence of Irrelevant Anchors on Experts' Judicial Decision Making," 32 *Personality and Social Psychology Bulletin* 188–200.

Epstein, L., and J. Knight. 1998. *The Choices Justices Make*. Washington, D.C.: Congressional Quarterly.

Farber, D.A. 2006. "The Rule of Law and the Law of Precedents," 90 *Minnesota Law Review* 1173–1203.

Feldman, Y., A. Schurr, and D. Teichman. 2016. "Anchoring Legal Standards," 13 *Journal of Empirical Legal Studies* 289–329.

Frederick, S.W., and D. Mochon. 2011. "A Scale Distortion Theory of Anchoring," 141(1) *Journal of Experimental Psychology: General* 124–133.

Fu, H. 2016. "Building Judicial Integrity in China," 39 *Hastings International and Comparative Law Review* 167–182.

Gechlik, M., D. Philips, and O. Lee. 2014. "Survey of Judges in China (2013-2014)," *Stanford Law School: Guiding Cases Project*, https://cgc.law.stanford.edu/guiding-cases-surveys/.

Gelman, A., and J. Hill. 2006. *Data Analysis Using Regression and Multilevel/Hierarchal Models*. New York: Cambridge University Press.

Glick, H.R. 1992. "Judicial Innovation and Policy Re-Invention: State Supreme Courts and the Right to Die," 52 *Western Political Quarterly* 71–92.

Glöckner, A., and B. Englich. 2015. "When Relevance Matters: Anchoring Effects Can Be Larger for Relevant than for Irrelevant Anchors," 46 *Social Psychology* 4–12.

Green, D.P., and P.M. Aronow. 2011. "Analyzing Experimental Data Using Regression: When is Bias a Practical Concern," unpublished manuscript.

Guthrie, C., J.J. Rachlinski, and A.J. Wistrich. 2001. "Inside the Judicial Mind," 86 *Cornell Law Review* 777–830.

Harris, P. 1982. "Structural Change in the Communication of Precedent among State Supreme Courts, 1870–1970," 4 *Social Networks* 201–212.

Harris, P. 1985. "Ecology and Culture in the Communication of Precedent among State Supreme Courts, 1879–1970," 19 *Law and Society Review* 449–486.

Hastie, R., D.A. Schkade, and J.W. Payne. 1999. "Juror Judgments in Civil Cases: Effects of Plaintiff's Requests and Plaintiff's Identity on Punitive Damage Awards," 23 *Law and Human Behavior* 445–470.

He, L. 2008. "1983: Dangzhongyang Juece "Yanda" Shimo [1983: The Whole Story of Implementing CCP's Crackdown Policy]," 206 *Jiancha Fengyun [Prosecutorial View]* 66–68.

He, X. 2011. "Debt-Collection in Less Developed Areas of China: An Empirical Study from Shanxi Province," 206 *China Quarterly* 253–275.

He, X. 2012. "Black Hole of Responsibility: The Adjudication Committee's Role in a Chinese Court," 46 *Law and Society Review* 681–712.

Heilmann, S., L. Shih, and A. Hofem. 2013. "National Planning and Local Technology Zones: Experimental Governance in China's Torch Programme," 216 *The China Quarterly* 896–919.

Hinkle, R.K., and M.J. Nelson. 2016. "The Transmission of Legal Precedent among State Supreme Courts in the Twenty-First Century," 16 *State Politics and Policy Quarterly* 1–21.

Hou, S., and R.C. Keith. 2012. "A New Prospect for Transparent Court Judgment in China?," 26 *China Information* 61–86.

Imbens, G.W., and D.B. Rubin. 2015. *Causal Inference in Statistics, Social, and Biomedical Sciences*. New York: Cambridge University Press.

Ji, W. 2013. "The Judicial Reform in China: The Status Quo and Future Directions," 20 *Indiana Journal of Global Legal Studies* 185–220.

Kempin, F.G. 1959. "Precedent and Stare Decisis: The Critical Years, 1800 to 1850," 3 *The American Journal of Legal History* 28–54.

Krosnick, J.A. 1991. "Response Strategies for Coping with the Cognitive Demands of Attitude Measures in Surveys," 5 *Applied Cognitive Psychology* 213–236.

Li, X. 1998. "Shenpan Xiaolv Ruhe Nengyou Dafudu Tigao [How to Greatly Improve the Efficiency of Adjudication]," *Faxue [Jurisprudence]* 52 - 54.

Liang, Y. 2007. "Panlifa De Luoji: Jianlun Woguo Anli Zhidao Zhidu De Goujian [The Logic of Case Law: The Establishment of Chinese Case Guidance System]," *Falv Fangfa Yu Falv Siwei [Legal Methodology and Legal Cogitation]* 141–159.

Liebman, B., and T. Wu. 2007. "China's Network Justice," 8 *Chicago Journal of International Law* 257–322.

Lin, C.X. 2003. "A Quiet Revolution: An Overview of China's Judicial Reform," 4 *Asian-Pacific Law and Policy Journal* 255–319.

Liu, N. 1991. "Legal Precedents with Chinese Characteristics: Published Cases in the Gazette of the Supreme People's Court," 5 *Journal of Chinese Law* 107–140.

Liu, S. 2006. "Beyond the Global Convergence: Conflicts of Legitimacy in a Chinese Lower Court," 31 *Law and Social Inquiry* 75–106.

Loewenstein, G. 1999. "Experimental Economics from the Vantage-Point of Behavioral Economics," 109 *The Economic Journal* 25–34.

Lubman, S.B. 1999. *Bird in a Cage*. Palo Alto: Stanford University Press.
Luo, J. 2012. *Zhongguo Minshi Panli Zhidu Goujian Yanjiu [Research on the Development of Chinese Civil Case Law System]*. Beijing: Law Press China.
Lutz, J.M. 1997. "Regional Leaders in the Diffusion of Tort Innovations among the American States," 27 *Publius* 39–58.
Lynch, J.J.G., D. Chakravarti, and A. Mitra. 1991. "Contrast Effects in Consumer Judgments: Changes in Mental Representations or in the Anchoring of Rating Scales?," 18 *Journal of Consumer Research* 284–297.
Ma, L. 2014. "Diffusion and Assimilation of Government Microblogging: Evidence from the Chinese Cities," 16 *Public Management Review* 274–295.
Macey, R.J. 1989. "The Internal and External Costs and Benefits of Stare Decisis," 65 *Chicago-Kent Law Review* 21–236.
Malouff, J., and N.S. Schutte. 1989. "Shaping Juror Attitudes: Effects of Requesting Different Damage Amounts in Personal Injury Trials," 129 *The Journal of Social Psychology* 491–497.
Marti, M.W., and R.L. Wissler. 2000. "Be Careful What You Ask For: The Effects of Anchors on Personal-Injury Damages Awards," 6 *Journal of Experimental Psychology: Applied* 91–103.
Mochon, D., and S. Frederick. 2013. "Anchoring in Sequential Judgments," 122 *Organizational Behavior and Human Decision Processes* 69–79.
Moyer, L.P., and H. Tankersley. 2012. "Judicial Innovation and Sexual Harassment Doctrine in the U.S. Courts of Appeals," 65 *Political Research Quarterly* 784–798.
Phillips, S., and R. Grattet. 2000. "Judicial Rhetoric, Meaning-Making, and the Institutionalization of Hate Crime Law," 34 *Law and Society Review* 567–606.
Qin, Z., and G. Zhou. 1995. "Pursuing Perfection: Formation of the Qing Code," 21 *Modern China* 310–344.
Rachlinski, J.J., A.J. Wistrich, and C. Guthrie. 2015. "Can Judges Make Reliable Numeric Judgments?: Distorted Damages and Skewed Sentences," 90(2) *Indiana Law Journal* 695–739.
Randall, P. 2002. *China's Long March toward Rule of Law*. New York: Cambridge University Press.
Schauer, F. 1987. "Precedent," 39 *Stanford Law Review* 571–605.
Shipan, C.R., and C. Volden. 2012. "Policy Diffusion: Seven Lessons for Scholars and Practitioners," 72 *Public Administration Review* 788–796.
Smyth, R., and V. Mishra. 2011. "The Transmission of Legal Precedent across the Australian State Supreme Courts over the Twentieth Century," 45 *Law and Society Review* 139–169.
Solberg, R.S., J.A. Emrey, and S.B. Haire. 2006. "Inter-Court Dynamics and the Development of Legal Policy: Citation Patterns in the Decisions of the U.S. Courts of Appeals," 34 *The Policy Studies Journal* 277–293.
Spamann, H., and L. Klöhn. 2016. "Justice Is Less Blind, and Less Legalistic, than We Thought: Evidence from an Experiment with Real Judges," 45(2) *Journal of Legal Studies* 255–280.
Stern, R.E. 2010. "On the Frontlines: Making Decisions in Chinese Civil Enviornmental Lawsuits," 32 *Law & Policy* 79–103.
Strack, F., and T. Mussweiler. 1997. "Explaining the Enigmatic Anchoring Effect: Mechanisms of Selective Accessibility," 73 *Journal of Personality and Social Psychology* 437–446.
Talley, E. 1999. "Precedential Cascades: An Appraisal," 73 *Southern California Law Review* 87–138.
Teets, J.C., and W. Hurst. 2014. *Local Governance Innovation in China: Experimentation, Diffusion, and Defiance*. London: Routledge.
Walsh, D.J. 1997. "On the Meaning and Pattern of Legal Citations: Evidence from State Wrongful Discharge Precedent Cases," 31 *Law and Society Review* 337–362.
Wang, Z. 2005. "Case Precedent in Qing China," 19 *Columbia Journal of Asian Law* 323–344.

Woo, M. 1999. "Law and Discretion in the Contemporary Chinese Courts," 8 *Pacific Rim Law & Policy Journal* 581–615.

Wu, S. 1998. "Guizu Jingshen Yu Panlifa Chuantong [Nobility Spirit and Case Law Tradition]," *Zhongwai Faxue [Peking University Law Journal]* 25–30.

Xia, M. 2007. *The People's Congresses and Governance in China: Toward a Network Mode of Governance*. London: Routledge.

Yang, Z. 2015. "Panlifa zai Zhongguo Shishi de Biyaoxing Fenxi," *Falv Bolan [Legality Vision]* 242.

Yao, Y. 2008. "Yi Anli Xuanchuan Shehui Zhuyi Fazhi [Promoting the Socialist Legal System through Cases]," 14 *Journal of People's Court* 6.

Zhang, Q. 2002. "Panlifa Zhiyi [Questioning "Case Law"]," Journal of Comparative Law 109–113.

Zhang, Y. 2012. "Institutional Sources of Reform: The Diffusion of the Land Banking Systems in China," 8 *Management and Organization Review* 507–533.

Zhu, X. 2014. "Mandate versus Championship: Vertical Government Intervention and Diffusion of Innovation in Public Services in Authoritarian China," 16 *Public Management Review* 117–139.

Zizzo, D.J. 2012. "Experimenter Demand Effects in Economic Experiments," 13 *Experimental Economics* 75–98.

Zuo, W. 2015. Zhongguo Tese Anli Zhidao Zhidu Yanjiu [Cases Guiding System with Chinese Characteristics]. Beijing: Peking University Press.